

# **Exhibit B**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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IN RE: NATIONAL PRESCRIPTION )  
OPIATE LITIGATION, )  
 ) MDL No. 2804  
 )  
THIS DOCUMENT RELATES TO: ) Case No. 17-md-2804  
 )  
Track Three Cases )  
 )

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VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF  
  
ANNA LEMBKE, M.D.

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11:27 A.M. EDT - 8:27 A.M. PDT  
MAY 28, 2021

THIS DEPOSITION IS BEING TAKEN VIA VERITEXT  
VIRTUAL/TELEPHONICALLY, AND ALL PARTIES, THE WITNESS,  
AND COURT REPORTER ARE APPEARING REMOTELY

REPORTED BY: JUDY BONICELLI, RPR, CCR 2322, CSR 9091

1 MR. ARBITBLIT: Object to form.

2 THE WITNESS: My publications are  
3 directed broadly to various stakeholders inside of  
4 medicine, and that would include pharmacists.

5 BY MR. GISLESON:

6 Q. Did you review any of the prescriptions in  
7 this case to determine whether they contained any red  
8 flags?

9 A. By that, do you mean the specific notes  
10 regarding specific prescriptions?

11 Q. The specific prescription itself.

12 A. No. Those are not --

13 Q. Have you reviewed any prescription data?

14 MR. ARBITBLIT: Object to form.

15 THE WITNESS: What do you mean by  
16 "prescription data"?

17 BY MR. GISLESON:

18 Q. Data that is maintained by one of the chain  
19 pharmacy defendants that identifies opioid medications  
20 that have been dispensed by that pharmacy defendant?

21 A. Yes.

22 Q. What data did you review?

23 A. So if you give me a moment to find it, please.

24 Page 84 of my report contains a table with specific  
25 data on Walgreens' income due to the sale of OxyContin

1 pharmacy defendants has in Trumbull and Lake Counties?

2 A. No.

3 Q. Do you know what the average duration was for  
4 prescriptions that were filled for controlled  
5 substances by any of the chain pharmacy defendants?

6 A. No.

7 Q. What was the process that the chain -- strike  
8 that.

9 You understand that corresponding  
10 responsibility applies only to the pharmacist, right?

11 MR. ARBITBLIT: Objection. Misleading.

12 THE WITNESS: I would disagree with  
13 that. I think the DEA, some of the DEA enforcement  
14 rulings have made it very clear that the corresponding  
15 responsibility applies not just to the pharmacists but  
16 also to the pharmacies.

17 BY MR. GISLESON:

18 Q. You understand that it's the pharmacist who  
19 exercises the judgment whether to dispense an opioid  
20 medication, correct?

21 MR. ARBITBLIT: Object to form.

22 THE WITNESS: Again, that judgment  
23 cannot be adequately exercised in an environment where  
24 pharmacists are not given the information or the  
25 support or the time or the incentives to exercise their

1           A. I haven't seen any evidence to the contrary.  
2 I would be happy to evaluate that if you have evidence  
3 to the contrary, but again, these were national  
4 policies. I have no reason to believe that Lake and  
5 Trumbull Counties are an exception in any way.

6           Q. How do we test your theory that pharmacists  
7 for the chain defendants in Lake and Trumbull County  
8 were disempowered from exercising clinical judgment?

9                       MR. ARBITBLIT: Object to form.

10                      THE WITNESS: I don't think it's a  
11 theory that I have. I think there is plenty of  
12 evidence that when you have 3.22 minutes to fill  
13 a prescription, it's going to be very difficult to do  
14 your due diligence to make sure that you explore red  
15 flags.

16 BY MR. GISLESON:

17           Q. Did you do any analysis of the time to fill  
18 prescriptions for any of the chain defendants in Lake  
19 or Trumbull Counties?

20           A. No, but the University of Cincinnati did.  
21 They studied Rite Aid's prescription fill rates in  
22 2011.

23           Q. And that involves fill rates for all  
24 medications, not just controlled substances, correct?

25           A. That's correct.

1 BY MR. GISLESON:

2 Q. Did you speak with any pharmacists in Ohio?

3 A. No.

4 Q. Have you been to either Lake County or  
5 Trumbull County?

6 A. I don't -- I may have. I may have briefly.

7 Q. Do you know how many pharmacy stores Rite Aid  
8 has in Lake County?

9 A. I do not.

10 Q. Do you know how many pharmacists Rite Aid has  
11 in Lake County?

12 A. No.

13 Q. Do you know how many pharmacy stores Rite Aid  
14 has in Trumbull County?

15 A. No.

16 Q. Do you know how many pharmacists Rite Aid has  
17 in Trumbull County?

18 A. No.

19 Q. Do you know how many stores or pharmacists any  
20 of the chain pharmacy defendants have in either in Lake  
21 or Trumbull County?

22 A. No.

23 MR. GISLESON: Mr. Ladd, can you please  
24 get Tab 3? And Dr. Lembke, if you can go to Tab 3,  
25 please.

1 A. Yes.

2 Q. Does your paper copy of your report have notes  
3 or margin area?

4 A. It has post-its to serve as an index so I can  
5 try to find things more quickly.

6 Q. Anything other than post-its?

7 A. No.

8 Q. All right. Switching gears, did any pharmacy  
9 in Lake or Trumbull County conduct itself in a way that  
10 you consider to be compliant with best practices in the  
11 requirements under the Controlled Substances Act?

12 MR. ARBITBLIT: Object to form.

13 THE WITNESS: Again, my opinions on Lake  
14 and Trumbull County are based on my review of national  
15 policies of the defendants' policies and procedures,  
16 and so my opinion of those policies and procedures for  
17 good and for bad are the same nationally as they are in  
18 Lake and Trumbull County because I have no evidence to  
19 suggest that Lake and Trumbull County are outliers.

20 BY MR. CARTER:

21 Q. So with respect to the defendant pharmacies  
22 named in this case, is it your opinion that every  
23 pharmacy location for one of the defendant pharmacies  
24 in Lake or Trumbull County was acting in a  
25 non-compliant way?

1           A. My opinion is not based on every pharmacy or  
2           every pharmacist. My opinion is looking at the  
3           aggregate evidence to determine what the policies and  
4           procedures were in defendant chains' pharmacies and to  
5           form my opinion based on that.

6           Q. Did you conduct any systematic review of the  
7           defendant pharmacies in Lake or Trumbull County to  
8           identify the good pharmacy locations and distinguish  
9           them from bad pharmacy locations?

10           MR. ARBITBLIT: Object to form.

11           THE WITNESS: So my systematic review is  
12           my report and my opinion is based on aggregate data,  
13           and Trumbull and Lake Counties are not, in my opinion,  
14           outliers for what was happening nationally.

15           BY MR. CARTER:

16           Q. Is there any county in the country that you  
17           would identify as an outlier from the national pattern?

18           A. Opioid prescribing patterns suggest that there  
19           are counties in the country that were more affected by  
20           the oversupply of opioids than others, but that the  
21           problem extended to everywhere in the United States,  
22           that it wasn't localized to any specific state or  
23           region, although clearly, there are differences,  
24           geographic differences in the severity of the opioid  
25           epidemic region to region.